170

No. 10-139

Supreme Court, U.S.
FILED
SEP 7 - 2010
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

GRAZYNA H. CHRISTMAN,
Petitioner

v.

UTICA NATIONAL INSURANCE GROUP, INC.,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

REPLY TO BRIEF IN OPPOSITION

GRAZYNA H. CHRISTMAN
Pro Se
450 ELMDALE AVENUE
UTICA, NEW YORK 13502
(315) 733-6687

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REASONS FOR DISMISSING RESPONDENT'S BRIEF IN OPPOSITION

In support of her opposition to Respondent's Brief in Opposition ("Brief") to the Petition for a Writ of Certiorari, Petitioner wishes to direct the Court's attention to the additional facts that were part of proceedings in the lower courts, the facts related to the New York State Division of Human Rights ("SDHR") claim and few other documented facts, disclosure of which becomes necessary at present.

I. Respondent continues to maintain that Petitioner is a former employee of Utica Mutual Insurance Company.

Under List of Parties, Respondent states that "[t]he following list identifies all of the parties appearing both here and before the United States Court of Appeals for the Second Circuit: (1) Grazyna H. Christman, Petitioner; and (2) Utica Mutual Insurance Company, Respondent. *See* Brief, p.*ii*. But Petitioner wishes to point the Court's attention to yet another document implying Utica National Insurance Group ("UNIG") as her employer who paid her salary, as shown in App.E-1a-2a.

Respondent's website explains: "Utica National Insurance Group is a trade name under which [its] individual companies do business and does not, itself, issue insurance policies. Insurance products described in uticanational.com are underwritten by the following member companies of the Utica National Insurance Group: ▪ Utica Mutual Insurance Company ▪ Graphic Arts Mutual Insurance Company ▪ Republic-Franklin Insurance Company ▪ Utica National Insurance Company of Texas ▪ Utica

National Assurance Company ▪ Utica Lloyd's of Texas ▪ Utica Specialty Risk Insurance Company." (*See* http://www.uticanational.com/Company/member companies.asp)

II. Respondent attempts to poison the well throughout this case by making sweeping references to what happened procedurally at the SDHR/EEOC.

Respondent writes in its Brief that "[t]he NYSDHR investigated Petitioner's complaint and in June 2006 issued a Determination and Order After Investigation dismissing her complaint. In August 2006, the EEOC dismissed Petitioner's dual-filed charge of discrimination against Respondent." *See* Brief, p.2; *see* also App.B-23a-24a, Footnote 3.

The SDHR proceedings [1] are separate from Petitioner's action before this Court. What a state administrative agency does, has no effect, res judi-

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[1] Under Freedom of Information Act (FOIA), Petitioner obtained a copy of the entire SDHR file. The "Final Investigation Report and Basis of Determination" reveal that the SDHR "found no probable cause to support the allegations of the complaint." *See* App.E-4a. The SDHR "Complaint's Exhibit Control Sheet" reveals that the agency was apparently overwhelmed by the volume of Petitioner's documentation as it wrote under Description: "Complainant's rebuttal with attachments too many to list!" [Emphasis added]. *See* App.E-5a. The SDHR "Event History with Comments" shows that 405 pages of the complainant's rebuttal were mailed to respondent's attorney on January 18, 2006. *See* App.E-7a. Virtually all this documentation was subsequently submitted to the District Court as Exhibits attached to Plaintiff's Rule 7.1 Response to Defendant's Statement of Material Facts and her Additional

(Cont'd)

cata or otherwise, on the ability of a plaintiff to bring a *de novo* action in federal court under the Title VII. *See University of Tennessee v. Elliott,* 478 U.S. 788 (1986) (clarifying that the Supreme Court's decision in *Kremer v. Chemical Construction Corp.*, 456 U.S. 461 n.7 (1982), only applies to decisions on the merits rendered by state courts, not state agencies).

Most of the EEOC charges result in dismissal. Out of 75,428 charges received in the fiscal year 2005, the EEOC found reasonable cause only in 5.7%; out of 75,768 in 2006 – in 5.3%. (*See* http://www.eeoc.gov/eeoc/statistics/enforcement/all.cfm). The EEOC dismissed Petitioner's case by adopting the SDHR findings of "no probable cause," App.E-4a and issued a Notice of Right to Sue, giving her an option to file a lawsuit in the Federal Court.

III. Respondent shuffles the order of discrimination charges in Petitioner's SDHR claim and her subsequent Complaint and Appeal filed with the lower courts in a way that it favors Respondent's argument.

Under "Statement of the Case," Respondent erroneously writes: "Petitioner filed a complaint of discrimination (...) in April 2005 (...) alleging disability, age and gender discrimination." *See* Brief, pp.1-2 But Petitioner's SDHR Verified Complaint

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(Cont'd)
Statement of Material Facts. [Emphasis added]. (Dkt. No. 40, 05/28/08). Respondent's Counsel acknowledged that "[t]here is a large volume of paperwork in connection with this case" and it is "trying to narrow the scope [emphasis added] as much as possible." *See* Petition, App.D-279a-280a.

Pursuant to Executive Law, Article 15, Case No. 10105010 (Federal Charge No. 16GA502748) stated:

> I, Grazyna H. Christman (...) charge the above named respondent (...) with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights law) because of age, sex, disability. [Emphasis added]. *See* Case 6:06-cv-1392-GTS-GHL, U.S. District Court NYND, Document 40-5, Plaintiff's Rule 7.1 Response Filed 05/28/08, SDHR 04/13/05 Verified Complained, Exhibit 47, p.2.

Respondent continues: "[i]n November 2006, Petitioner filed an action against Respondent in the United States District Court for the Northern District of New York (...) alleging disability, age and [gender?] [2] discrimination." *See* Brief, p.2.

Petitioner wishes to direct the Court's attention that her Petition for a Writ of Certiorari addresses only the gender and age-based discrimination in violation of Title VII and ADEA, which are two, out of the three initially filed by her former lawyer, Stefan D. Berg, Esq. distinct [emphasis added] discrimination charges; nowhere does the Petition question the lower courts' rulings related to the discrimination based on her perceived disability.

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[2] Respondent's line reads: "(. . .) alleging disability, age and discrimination." *See* Brief, p.2.

IV. Throughout the entire discovery and motion process, Respondent attempts to dissemble by filing a cross-motion for protective and confidentiality orders in August 2008 and the second motion for protective order in September 2008.

Respondent states in its Brief: "[f]ollowing discovery and motion practice, on March 27, 2009 the District Court, *inter alia,* granted summary judgment to Respondent[.]" *See* Brief, p.2.

But the discovery road was bumpy. When Petitioner became Plaintiff *pro se* in 2008, she learned that (1) her former lawyer never obtained the emails [3] exchanged between Evolo and herself during his 2002-2005 supervision; and (2) Defendant never produced the personnel records requested in 2007 for Grazyna Christman (Petitioner), Martha Dumont and David Raga. (*See* Case 6:06-cv-1392-GTS-GHL, U.S. District Court NYND Document 40-10, Plaintiff's Rule 7.1 Response Filed 05/28/08, Stefan Berg 07/05/07 Letter, Exhibit 97). Petitioner filed an F.R.C.P. Rule 56 motion to continue discovery in May 2008. (Dkt. No. 38, 05/28/08).

Respondent forcefully opposed the release of records, stating that Petitioner "articulated no reason for needing such records" and that the "request (...) is not only irrelevant, but also completely inappropriate and would violate their [Raga, Dumont and Krug's [4]]

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[3] In 2008, Magistrate Judge Lowe ordered that Respondent submit the emails in question. *See* Dkt. No. 20, 02/08/08.

[4] Petitioner asked for Margaret Krug's records in May 2008.

rights to privacy and confidentiality." (Dkt. No. 43, 07/22/08).

These records, however, were relevant. In summer of 2002, Evolo interviewed at least two applicants for a vacated Reinsurance accountant position. Dumont in her forties was a Certified Public Accountant (CPA) with Associate in Reinsurance (ARe) designation; Raga in his thirties - not certified accountant and without ARe designation. Evolo hired the substantially younger, even though less qualified male accountant. Dumont was ultimately hired in Respondent's Financial Reporting supervised by Daniel P. O'Connell. As to Evolo, he apparently wished to have no older females in his department. Petitioner argued that an invidious discrimination was likely in this case, because Evolo was not the same person who hired and fired her; Christman was assigned to his department in January 2002 by Respondent's upper management. Petition, App.D-49a. *See Grady v. Affiliated Central, Inc.*, 130 F.3d 553, 560 (2d Cir. 1997) (an inference of discrimination unlikely when the same person hired and fired the plaintiff). [Emphasis added].

In July 2008, Petitioner filed a motion for sanctions against Respondent's attorney for conduct violating the F.R.C.P. Rule 11(b). (Dkt. No. 46, 07/31/08). Respondent in turn filed a cross-motion for protective and confidentiality orders in August 2008 (Dkt. No. 47, 08/08/08) and a second motion for protective order in September 2008 (Dkt. No. 52, 09/12/08.)

V. Respondent asserts that the Second Circuit and District Court thoroughly analyzed Petitioner's employment discrimination claim under well-established *McDonnell Douglas* burden shifting standard.

First, the District Court analysis does not appear to be thorough as it apparently disregards Petitioner's uncontroverted material facts submitted in the Additional Statement of Material Facts attached to Plaintiff's Rule 7.1 Response to Defendant's Statement of Material. (Dkt. No. 40, 05/28/08). The District Court wrote in its decision: "[f]or the sake of brevity, the Court will only provide a brief recitation of the undisputed material facts on Defendant's motion for summary judgment." *See* Petition, App.B-11a-12a. [5]

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[5] Respondent points: "Petitioner's reproduction of the decisions by the Courts below as Appendices A and B contains typographical errors that are not present in the decisions originally issued by the Courts." Brief, p.2. It fails, however, to provide further explanation. Presuming that "typographical" pertains to typography defined by Webster's Unabridged Dictionary, Copyright © 1999 Random House, Inc. as "general character or appearance of printed matter," Petitioner wishes to assure this Court that she reproduced both decisions faithfully to preserve their original page brakes, numbers and footnotes, while complying with the requirements set forth by the Supreme Court Rule 33 and 34, Document Preparation: Booklet Format; 8½- by 11-Inch Paper Format, and General Requirements, respectively. Any unintentional typing errors inadvertently escaped Petitioner's proof-reading stage. Petitioner is not a professional lawyer, but economist by trade and prepared the Petition to the best of her abilities, entirely on her own from the initial design through composing, printing to the final assembling, while diligently attempting to comply with all applicable Supreme Court Rules. *See* also Footnote No.7.

Respondent states that "[*McDonnell Douglas* burden shifting] standard is uniformly applied throughout the Circuit Courts of Appeals[,]" and quotes a case law for each Circuit, from D.C. through the First to the Eleventh Circuit. *See* Brief, p.3. Respondent argues that the Petition should be denied, because:

> Petitioner has presented no "compelling reasons" for the granting of her [Petition] [6] for a Writ of Certiorari ("Petition") [7]. (...) Specifically, Petitioner has failed to demonstrate that the Second Circuit's April 29, 2010 Summary Order (...) is in conflict with a decision of this Court or another Court of Appeals, implicates an important federal question that has not been settled by this Court, or departs so far from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Brief, p.1.

Noticeably in its five and a half page long Brief, Respondent repeats twice and almost verbatim the Supreme Court Rule 10. Considerations Governing Review on Certiorari. *See* Brief, pp.1-3.

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[6] Respondent's line reads: "Petitioner has presented no "compelling reasons" for the granting of her Petitioner for a Writ of Certiorari ('Petition')." *See* Brief, p.1.

[7] Respondent brings to this Court attention: "Petitioner acknowledges in her Petition that she did not timely file a petition for rehearing with the Second Circuit." *See* Brief, p.4, Footnote 3. As such, Petitioner deems it necessary to point to circumstances that were beyond her control. Petitioner received *(Cont'd)*

Respondent continues in its Brief:

> [T]here is simply no conflict whatsoever between the Second and Eighth Circuit Courts. (...) [T]he Eighth Circuit in *Lynn* applied the same *McDonnell Douglas* burden-shifting standard applied by the Second Circuit below as follows: "[Lynn's] claims are analyzed under the three-stage burden-shifting framework set forth in *McDonnell Douglass Corp. v. Green* . . . and applied in countless other cases. *See* Brief, p.5.

But Petitioner points that the lower courts failed to modify the fourth prong in *McDonnell Douglas* three-stage burden shifting standard to distinguish between Title VII and ADEA discrimination claims. *See* Petition, p.34. The District Court stated, and the Second Circuit affirmed that:

> "On a motion for summary judgment, claims of discrimination under Title VII, Section 1981, the ADEA, the NYSHRL, and the NYS

(Cont'd)
the Summary Order from the Court of Appeals for the very first time electronically on June 3, 2010 at 1:03 PM. *See* App.E-9a. Had she not called the Second Circuit at 12:54 PM on June 3rd, App.E-12a to follow up on the Appeal status, she would have not known that it had been decided five weeks earlier. The letter sent via USPS apparently was lost in the mail; note, Petitioner resides at the same address since 1994. On June 3rd at 1:02 pm, she called Washington D.C. to learn about the Appeal process in the Supreme Court; she had eight weeks left to prepare and submit a Petition while working a full time job. The Second Circuit mailed another copy of summary order on June 4, 2010. *See* App.E-10a (date-stamped envelope).

> CRL are analyzed under the framework articulated in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, (1973)." *Davis v. Avaya, Inc.*, 295 F. App'x 380, 381 (2d Cir. Oct. 2, 2008). Under this framework, in order for a Plaintiff to survive summary judgment, she must first make out a prima facie case of discrimination. *McDonnell Douglas Corp.*, 411 U.S. at 802-804. In order to make out a prima facie case, Plaintiff must demonstrate the following: "(1) membership in a protected class; (2) satisfactory [8] job performance; (3) termination from employment or other adverse employment action; and (4) the ultimate filing of the position with an individual who is not a member of the protected class." *Farias v. Instructional Sys., Inc.* 259 F.3d 91, 98 (2d Cir. 2001).[Emphasis added]. App.B-23a. *See* also Footnotes No.5 and 7.

"Title VII is materially different [from ADEA] with respect to the relevant burden of persuasion[.]" *See Gross v. FBL Financial Services, Inc.*, 129 S. Ct. 2343, 2348 (2009). In *Gross*, the Supreme Court said as follows:

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[6] The courts held that a plaintiff need not demonstrate satisfactory job performance where the alleged discriminator is the same person who judged the plaintiff's job performance inadequate. *See, e.g., Oest v. Illinois Dep't of Corrections*, 240 F.3d 605, 612 (7th Cir. 2001) ("The district court correctly held that the second prong, meeting the employer's legitimate business expectations, was not necessary to the analysis; the people judging Ms. Oest's performance were the same she accused of discriminating against her.").

> In *Price Waterhouse*, a plurality of the Court and two Justices concurring in the judgment determined that once a "plaintiff in a Title VII case proves that [the plaintiff's membership in a protected class] played a motivating part in an employment decision, the defendant may avoid a finding of liability only by proving by a preponderance of the evidence that it would have made the same decision even if it had not taken [that factor] into account."; see also *id.*, at 259-260, 109 S.Ct. 1775 (opinion of White, J.); *id.*, at 276, 109 S.Ct. 1775 (opinion of O'Connor, J.). But as we explained in *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 94-95, 123 S.Ct. 2148, 156 L.Ed.2d 84 (2003), Congress has since amended Title VII by explicitly authorizing discrimination claims in which an improper consideration was "a motivating factor" for an adverse employment decision. See 42 U.S.C. § 2000e-2(m) (providing that "an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was *a motivating factor* for any employment practice, even though other factors also motivated the practice" (emphasis added)); § 2000e-5(g)(2)(B) (restricting the remedies available to plaintiffs proving violations of § 2000e-2(m)). *See* 129 S. Ct. 2343 at 2349.

And furthermore, the Supreme Court stated:

> This Court has never held that this burden-shifting framework applies to ADEA claims. And, we decline to do so now. When conduct-

> ing statutory interpretation, we "must be careful not to apply rules applicable under one statute to a different statute without careful and critical examination." *Federal Express Corp. v. Holowecki*, 552 U.S. ___, ___, 128 S.Ct. 1147, 1153, 170 L.Ed.2d 10 (2008). Unlike Title VII, the ADEA's text does not provide that a plaintiff may establish discrimination by showing that age was simply a motivating factor. Moreover, Congress neglected to add such a provision to the ADEA when it amended Title VII to add §§ 2000e-2(m) and 2000e-5(g)(2)(B), even though it contemporaneously amended the ADEA in several ways, see Civil Rights Act of 1991, § 115, 105 Stat. 1079; id., § 302, at 1088. *Id.*

The ample record evidence that Petitioner presented to the SDHR and EEOC in 2005, and the lower courts in 2006-2009, proves that her gender played a motivating part in the adverse employment decision and casts doubt whether this employment decision was made for a legitimate business reason. The evidence clearly shows that the female Petitioner and the similarly-situated male employees have not [emphasis added] been treated the same way by Respondent. Since Respondent has not treated the female Petitioner and the similarly-situated male employees the same way, it needs to explain persuasively "why not" at a jury trial. *See Lynn v. Deaconess Med. Ctr.-West Campus*, 160 F.3d 484, 489 (8th Cir. 1998) ("Although Deaconess may ultimately be able to offer a plausible explanation for its treatment of Lynn and its other nurses, these are matters to be decided at trial and not by summary judgment[.]").

CONCLUSION

Petitioner understands and has utmost respect for the fact that "[r]eview on a writ of certiorari is not a matter of right, but a judicial discretion" as indicated in the Supreme Court Rule 10. But like Christman-Employee, who on February 4, 2005 wrote that "[she] feel[s] confident that if someone [at UNIG-Employer] took a moment to look at the attached [memo], it would help to put things in perspective, (Petition, App.D-116a), Christman-now-Petitioner still has trust that her perseverance will cause the truth to prevail.

For all the foregoing reasons, Respondent's Brief in Opposition to the Petition for a Writ of Certiorari should be dismissed.

Respectfully submitted,

GRAZYNA H. CHRISTMAN
Pro Se
450 Elmdale Avenue
Utica, New York 13502
(315) 733-6687

APPENDIX

Appendix E

Utica National Insurance Group
Respondent's Overtime Payment Check & Envelope

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND NOT A WHITE BACKGROUND 50-42
213

[Logo] UTICA NATIONAL INSURANCE GROUP
UTICA NEW YORK

MARINE MIDLAND BANK UTICA, NEW YORK

[Bank Encoding] HSBC BANK 021300420
BUFFALO, N.Y. 162835

CHECK NUMBER No.162835 DATE 02-22-2005

PAY TO THE ORDER OF GRAZYNA H. CHRISTMAN

PAY THIS AMOUNT ******550.57

01 U1 0114 04 01140
GRAZYNA H. CHRISTMAN
450 ELMDALE AVENUE
UTICA NY 13502

s/ J Douglas Robinson
s/ A Paolozzi

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK – HOLD AT AN ANGLE TO VIEW

⑈162835⑈ ⑆021300420⑆ [Account Number Redacted]

Appendix E

Utica National Insurance Group
Respondent's Overtime Payment Check & Envelope

[Logo] UTICA NATIONAL INSURANCE GROUP
Insurance that starts with you ®
www.uticanational.com

[Stamp] MAILED SYRACUSE NY DROP
SHIPMENT AUTHORIZATION 17 PO BOX 530
UTICA NY 13503
[Stamp]PRESORTED FIRST CLASS
[Stamp] FEB 23 '05 METER 7138312 ≡ 0.53^{4}
U.S. POSTAGE

Ms. Grazyna Christman
450 Elmdale Ave
Utica, NY 13502

A-GPSMM 13502 [Barcode]

Appendix E

State of New York Executive Department
Division of Human Rights

INTER-OFFICE MEMORANDUM, p.5

Final Investigation Report and Basis of
Determination SDHR
Case No. 10105010

Grazyna H. Christman v. Utica National Insurance
Group

III. BASIS FOR DETERMINATION

The complainant was one of three accountants supervised by the same Supervisor. Although she was the only female and was older than the other two males in the unit, the investigation did not reveal that she was subjected to disparate treatment with regards to tasks and performance standards.

The record shows that between August, 2003 and January 2005 the complainant was counseled on at least six occasions for unsatisfactory performance and given suggestions for improvement. Additionally two of the male coworkers were both evaluated on the same criteria; and one of them initially received a lower performance rating than the complainant.

The complainant was able to take medical leave to address her medical condition on November 11, 2004 and returned to work December 27, 2004. There is no indication that the complainant's disability was in any way related to the respondent's decision to terminate her employment on February 21, 2005, for

Appendix E

State of New York Executive Department
Division of Human Rights

INTER-OFFICE MEMORANDUM, p.5

failure to improve her unsatisfactory work performance.

Reviewed & Approved: s/
Carmen Z. Quinones
Human Rights Specialists II

IV. DETERMINATION

Based on the foregoing, I find no probable cause to support the allegation of the complaint.

s/
Rey F. Torres
Regional Director

Appendix E

State of New York Executive Department
Division of Human Rights

COMPLAINANT EXHIBIT CONTROL SHEET

Number	Description	Date Received
	[handwritten]	
	Complainant's rebuttal	
	with attachments	
	too many to list!	

Appendix E

State of New York Executive Department
Division of Human Rights

NYS DHR
EVENT HISTORY WITH COMMENTS, p.4

Events
Comments:

Unit:	Regional
Type:	Rebuttal Received
SubType:	
Date:	Tue 8/9/2005
Status:	Completed
Date Completed:	8/9/2005
Assigned:	
Comments:	

Unit:	Rebuttal
Type:	Complainant Contact
SubType:	Mail
Date:	Thu 8/11/2005
Status:	Completed
Date Completed:	8/11/2005
Assigned:	Linda A. Pitts
Comments:	received additional documents to be included with rebuttal

Unit:	Regional
Type:	Respondent Contact
SubType:	Mail
Date:	Wed 1/18/2006
Status:	Completed
Date Completed:	1/18/2006
Assigned:	Carmen Z. Quinones

Appendix E

State of New York Executive Department
Division of Human Rights

NYS DHR
EVENT HISTORY WITH COMMENTS, p.4

Comments:	Mailed to respondent's attorney a copy of the complainant's rebuttal, 405 pages at .25 per page [$101.25]

Unit:	Regional
Type:	Respondent Contact
SubType:	Mail
Date:	Wed 2/15/2006
Status:	Completed
Date Completed:	2/15/2006
Assigned:	Carmen Z. Quinones;Linda A. Pitts
Comments:	received ck in the amount $101.25 to cover copies of Cp's rebuttal documents

---

Unit:	Commissioner
Type:	Correspondence Received, response required
SubType:	Mail
Date:	Mon 3/20/2006
Status:	Completed
Date Completed:	4/5/2006
Assigned:	Letitia Akens
Comments:	

Unit:	Regional
Type:	Comparative Data Reviewed
SubType:	
Date:	Thu 6/15/2006

Appendix E

State of New York Executive Department
Division of Human Rights

NYS DHR
EVENT HISTORY WITH COMMENTS, p.4

Status: Completed
Date Completed: 6/15/2006
Assigned:
Comments:

Report run on 6/16/2006 By: rtorres Page 4

Appendix E

U.S. Court of Appeals for the Second Circuit
Connie Mazariego Email 06/03/10, p.1

GC

From: <Connie_Mazariego@ca2.uscourts.gov>
To: "G C" <graz15@msn.com>
Sent: Thusrday, June 17, 2010 8:43 AM
Subject: Re: Summary Order 09-1385-cv
Good morning,
The above decision was issued by summary order and summary orders are not published.

"G C" <graz15@msn.com>
06/16/2010 04:23 PM
To <Connie_Mazariego@ca2.uscourts.gov>
cc
Subject: Re: Summary Order 09-1385-cv
Good afternoon Ms. Mazariego, and thank you for the email.
Could you please tell me how to find whether the above order/opinion of the United States court of appeals is:
(1) reported and if yes, where, or
(2) has been designated for publication, but is not yet reported; or
(3) is unpublished?
Thank you for your time,
Grazyna Christman

- - - - - Original Message - - - - -
From: Connie_Mazariego@ca2.uscourts.gov
To: graz15@msn.com
Sent: Thursday, June 03, 2010 1:03 PM
Subject: Summary Order 09-1385-cv

Appendix E

U.S. Court of Appeals for the Second Circuit
Date Stamped Envelope 06/04/10

CLERK'S COURT
UNITED STATES COURT OF APPEALS
UNITED STATES COURT HOUSE
FOLEY SQUARE
NEW YORK, N.Y. 10007
[Stamp] UNITES STATES POSTAGE
[Logo] PITNEY BOWES
02 1A
000 460 4793
$00.61⁰
JUN 04 2010
MAILED FROM ZIP CODE 10007

[Address Window]

[Barcode]

Appendix E

Petitioner's Verizon Telephone Bill, p.3

verizon Page 3 of 5

Phone Number	Account Number	Date Due
315-733-6687	[Redacted]	Jul 26, 2010

Questions? Visit Verizon.com or call 1-800-VERIZON (1-800-837-4966).

Changes in Service and Partial Month

Includes all partial month charges and credits including those for promotions and bundles as well as activation and installation charges. Bill cycles vary by products. See explanation under Bill Cycle dates on page two.

Breakdown of Charges Jul 1 -- Jul 31

Voice Services

Regional Calls (see Call Details) 1.47

Flat Rate Service 17.67

Verizon Calling Card .00

Flat Rate Usage 7.20

Touch-tone .00

Blocking or Prompt Repeat Dialing Feature .00

Call Trace Denial .00

Repeat Dialing Denial .00

*69 Denial .00

All Call Blocking .00

Blocking for Pay Per Use Three-Way calling .00

VLD Itemized Calls (See Call Detail) 19.80

VLD Federal Universal Service 2.28

VLD International Choice Plan with City Rates 4.99

Total Voice Service $53.41

Change in Service and Partial Month

Entire Service Out Credit 5 Days Jun 20-Jun 22 -4.31

Out of Service Credit FCC Line Charge Jun 3-20-Jun 22 -.64

Appendix E

Petitioner's Verizon Telephone Bill, p.3

Total Change in Service and Partial Month -$4.95
Taxes, Fees & Other Verizon Charges
Voice
Federal Tax .83
NY State/Local Sales Tax 3.57
VLD NY State/Local Sales Tax .58
911 Surcharge .35
Federal USF Surcharge .87
Surcharge(s) 1.08
FCC Line Charge 6.39
VLD NY Gross Receipts Tax Surcharge .69
Total Taxes, Fees & Other Verizon Charges $14.36
Call Detail

Long Distance Itemized Calls

Date	Time	Place	Number	Period	Minutes	Amount
Domestic Calls: 315-733-6687						
Jun 3	12:54 pm	New York	NY	212-857-8550		
				Peak	8	3.20
Jun 3	1:02 pm	Washington	NC	202-479-3000		
				Peak	2	.80
Jun 3	1:04 pm	Washington	DC	202-479-3000		
				Peak	5	2.00
Jun 3	1:09 pm	New York	NY	212-857-8593		
				Peak	1	.40
Jun 3	1:55 pm	New York	NY	212-857-8560		
				Peak	1	.40
Jun 3	1:56 pm	New York	NY	212-857-8593		
				Peak	1	.40
Jun 9	10:17am	Washington	DC	202-479-3038		
				Peak	1	.40